IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO. 67 OF 2006

The Commissioner of Customs
(General), Mumbai. ... Appellant.

V/s.

M/s.East & West Shipping
Agency, Mumbai. ... Respondent.

P.S.Jetly with Mrs.N.V.Masurkar i/b. H.P. Chaturvedi for the appellant.

Anil Balani with S.N.Kantawala and Yogesh Rohira for the respondent.

CORAM : DR.S.RADHAKRISHNAN and V.C.DAGA, JJ.

DATED : 25th April 2007.

P.C. :

. Heard learned counsel for the appellant and the learned counsel for the respondents.

2. The question of law raised in this appeal reads as under:

> "Whether the CESTAT is right in law in setting aside order of suspension passed under regulation 20 of CHALR, 2004 and directing the department to complete regular enquiry proceedings within a month?"

3. The Commissioner of Customs, vide his order dated 4th May, 2005 had suspended the licence of the respondent. The respondent carried the matter further

in appeal before the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT" for short). The CESTAT in para-2 of its order dated 24th July, 2006 has clearly observed as under:

> "..... However, the suspension has not been revoked against the CHA nor any enquiry report has been furnished to him to enable him to present his defence. More than a year has elapsed & the CHA has been deprived of his livelihood without any means to defend himself. It was accordingly prayed that the suspension should be revoked.

4. After hearing the learned counsel for the parties and after considering the rival submission, the CESTAT further observed as under:

> "We find that though the period of more than one year has passed but no enquiry report has been submitted to the CHA. This has deprived the CHA of his livelihood. This is in spite of the fact that the matter has been fully investigated as is evident from the show cause notice issued to the importer in which the power of attorney holder of the CHA was also a noticee. No further investigation therefore appeared to be pending. We accordingly revoke the suspension order with a liberty to the department to complete the regular proceedings within one months from the date of receipt of this order and to take such action as may be permissible under law."

5. The learned counsel for the appellant fairly states that even till today the enquiry has not been completed. In the aforesaid facts and circumstances, we do not find any substantial question of law involved in this appeal. Appeal is, thus, dismissed in limine.

(V.C.DAGA, J.) (DR.S.RADHAKRISHNAN, J.)